

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA SUE JAMES and DEPARTMENT OF AGRICULTURE,
FOREST SERVICE, Fall River Mills, Calif.

*Docket No. 96-2546; Submitted on the Record;
Issued December 16, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has established entitlement to further wage-loss compensation on and after October 7, 1993 as a result of her accepted injury.

The Board has given careful consideration to the issue involved, the contentions of appellant on appeal and the entire case record. The Board finds that the July 15, 1996 decision of the hearing representative of the Office of Workers' Compensation Programs is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.

The decisions of the Office of Workers' Compensation Programs dated July 15, 1996 and August 31, 1995 are hereby affirmed.

Dated, Washington, D.C.
December 16, 1998

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

MEMORANDUM JUSTIFYING ADOPTION

In this case, the Office accepted appellant's claim for left wrist tendinitis and paid compensation benefits including wage loss until October 6, 1993 when appellant returned to full time work in the private sector. (R 375) Appellant filed multiple claims for wage loss for periods beyond her return to work which the Office ultimately denied after a hearing representative ordered remand for further medical development. The hearing representative noted that appellant had been diagnosed with myofascial pain syndrome and ordered the Office to determine whether that condition was work-related and whether it caused appellant to be disabled for working at her customary job.

The medical evidence relevant to appellant's claim for wage loss after October 6, 1993 consisted of the following:

1. a July 7, 1993 medical report from Dr. John A. Melson, appellant's treating physician and Board-certified in psychiatry and neurology, who noted that he saw appellant for the first time in March 1993 at which time her left wrist tendinitis had spread to a full-blown myofascial syndrome involving both upper extremities and the cervical and thoracic spine. He noted that she demonstrated findings compatible with myofascitis at that time. As of the date of the report he opined that her tendinitis had resolved. He further noted that appellant's complaints were far out of proportion to objective findings, (R M66)
2. a July 19, 1993 medical report from Dr. Melson who stated that appellant had full range of motion in the cervical spine and had normal reflexes. He again noted that her subjective complaints outweighed his objective findings. The doctor noted that she had reached maximum benefits for physical therapy and could return to work which did not involve repetitive motions of both extremes, (R M67)
3. an August 9, 1993 medical report from Dr. John G. Maurer, Board-certified in orthopedic surgery, in which he stated that he had reviewed the medical records, examined appellant that day, and found no evidence of left wrist tendinitis but noted that appellant demonstrated symptoms consistent with myofascitis, (R M81)
4. a February 23, 1994 medical report from Dr. James E. Dunn, Board-certified in neurological surgery, in which he stated that he had examined appellant that day and noted findings. He stated that appellant had degenerative disc disease and myofascial syndrome, both conditions having been "aggravated by her work." He also found thoracic outlet secondary to her myofascitis. (R M104) However, he did not provide a rationalized medical opinion supporting his conclusion that appellant's conditions were aggravated by work,
5. a June 26, 1995 medical report from Dr. Eric Hammerburg, Board-certified in psychiatry and neurology to whom the Office referred appellant in accordance with the remand order, who stated that he had examined appellant on that day and reported findings. He noted that appellant had no limitation of motion of the cervical or lumbar spine or of either shoulder. He noted that abduction and external rotation of the shoulders caused a diminution of the brachial pulse. Straight leg raising was negative. The doctor noted tenderness in the right posterior cervical muscles, over the medial scapula bilaterally, over the left medial epicondyle in the both upper extremities, and over the first metacarpal joint of each hand. He noted no tenderness in the

lumbar or the greater trochanteric regions, over either knee, the sacroiliac or the buttocks. The doctor stated that appellant had “diffuse myalgia and arthralgias (myofascial pain syndrome) compatible with appellant’s age and unrelated to trauma or former employment with insufficient clinical evidence to document medical impairment.” In response to specific questions, Dr. Hammerburg stated that there were no objective findings to support a diagnosis of myofascial pain which he noted was unrelated to her former work duties. He further stated that appellant’s current work requirements were compatible with her physical abilities.(R 123)

Since the Office notified appellant that she would need to support her request for benefits with medical evidence establishing that the times she claimed as sick leave were causally related to her work-related injury, and that she failed to submit such medical evidence, the Office properly denied her claim. (R 259)

Dated, Washington, D.C.
December 16, 1998

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member